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DEPT PLEASE PASS TO USTR FOR CATHERINE HINCKLEY

SIPDIS

E.O. 12958: N/A

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SUBJECT: SWEDEN - SECTION 1377 TELECOM TRADE AGREEMENTS 2009 REVIEW

REF: STATE 4730

1. Post has been in touch with the Post and Telecom Agency (PTS) to draw their attention to the Section 1377 review process and to encourage an official Swedish response. A summary of how PTS views its efforts to ensure a good competitive situation on the Swedish market follows:

2. On November 24, 2004, the Swedish Post and Telecom Agency (PTS) decided that TeliaSonera should provide bitstream access. However, full implementation was not achieved until January 31, 2007. The delay was caused by a lengthy TeliaSonera appeal and the final verdict was settled by the Supreme Administrative Court.

3. Starting early 2007 when the matter of responsibility was finally settled, PTS immediately began the supervision of the bitstream area. On multiple occasions TeliaSonera has ignored the flaws and errors pointed out to them by PTS. This has resulted in eight injunctions where PTS has announced that they do not find that TeliaSonera lives up to the responsibilities followed by the decision of bitstream access. Eventually TeliaSonera has resolved most of the minor issues, but two additional injunctions have been issued, one of them resulting in a fine.

4. The complaints mentioned mainly involve problems concerning terms and agreements and the functionality of the products offered by TeliaSonera. Unjustified and unreasonable demands are posed in offerings regarding which products can be ordered and how they can be used. Access to complete product information and price related issues are other areas of concern. This significantly complicates the case for other wholesalers wishing to enter the market. In addition, Telia does not provide bitstream products over fiber connections claiming that the obligation refers to the copper net only. Since the decision to provide bitstream access is technology neutral, Telia's non-compliance has resulted in an injunction. In summary, the problems appear to be of a competitive nature, where TeliaSonera has withheld certain products from other actors on the market and only offered them to companies in the TeliaSonera network.

5. PTS is currently in the process of making new decisions on the matter of how bitstream can best be provided. The new legislation will hopefully resolve many of the problems encountered so far when working with both bitstream and LLUB technology. It is extremely important to ensure that all actors in the market have access to sufficient information, regardless of their connections to TeliaSonera. If this cannot be achieved, it will not be possible for any external actors to operate in the market (buying/selling a product). On many occasions, operators have contacted PTS and pointed out the importance of the bitstream market in order for them to operate on the broadband market. Operators have also stated that it is impossible to compete with the offerings TeliaSonera can make to its customers thanks to their superior information and access to products.

SILVERMAN